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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,650	02/24/2004	Christopher Kephart	021903	8176
7590	08/10/2005		EXAMINER	
Christopher J. Whewell Western Patent Group 6020 Tonkowa Trail Georgetown, TX 78628				NEWTON, JARED W
		ART UNIT		PAPER NUMBER
		3634		

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/784,650	KEPHART, CHRISTOPHER
	<b>Examiner</b>	<b>Art Unit</b>
	Jared W. Newton	3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-34 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 19 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because the generalness and the lack of quality of the lines. The drawings in general do not clearly indicate the claimed subject matter. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 101*

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-6, 8-11, 13, 15-21, 23-26, 28, and 30-34 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention is a non-statutory obvious-type double patent of U.S. Patent application 10/746683 to Kephart. The claims in the present application are not patentably distinguishable from the claims as shown by Kephart.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 6, 9, 14, 15, 17, 18, 21, 24, and 29-34 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,002,401 to Blackman.

6. Blackman clearly shows an article holding device 1 (see FIG. 3) including all the limitations of claim 1. Blackman shows a holding device comprising a panel portion 6 having a front face, a rear face, a left side portion, a right side portion, a top side portion, and a bottom side portion, wherein said panel comprises at least one pocket 52 disposed on said front face of said panel. Blackman further discloses a means for attachment of said construct to a wall 37 (see FIG. 1).

7. In regard to claim 2, Blackman discloses a device comprising all of the limitations of claim 1, and further discloses the use of cotton (see COL. 3, LN. 30) as the fabric material of said panel portion of said device 1.

8. In regard to claim 3, Blackman further discloses a device according to claim 1 wherein said front face of said panel 6 comprises a single sheet of cotton fabric 25 (see FIGS. 1 and 3).

9. In regard to claim 4, Blackman further discloses a device according to claim 1 wherein said rear face of said panel 6 comprises a single sheet of cotton fabric 26 (see FIGS. 1 and 3).

10. In regard to claim 6, Blackman further discloses a device according to claim 1 further comprising a multi-ply construction, comprising a first ply corresponding to said front face portion 25 and a said second ply corresponding to said rear face portion 26, wherein front face of said panel and said rear face of said panel each independently comprise a cotton sheet of fabric (see FIG. 3). Blackman further discloses said sheets being held together by stitching 134.

11. In regard to claims 9 and 24, Blackman clearly shows an article holding device 1 (see FIG. 3) including all the limitations of claim 1, and further comprising a soft, shock-absorbing reinforcing material insert 50 (see COL 3, LN. 41) disposed between said first ply 25 and said second ply 26 of said panel portion 6 (see FIGS. 1 and 3).

12. In regard to claim 14, Blackman clearly shows a device comprising the limitations of claim 1, and further comprising an open pocket 52, and a pocket 100 with a closure means 101 (see FIG. 3).

13. In regard to claim 15, Blackman discloses a device comprising first and second panel portions 6 and 8 each comprising a front face, a rear face, a left side portion, a

right side portion, a top side portion, and a bottom side portion, wherein said first panel includes at least one pocket 52 disposed on said front face of said panel (see FIG. 3), and further wherein said left side portion of said second panel portion is hingedly attached 32 to said right side portion of said first panel portion, and wherein said device comprises a means for attaching to a flat surface 37 (see FIG. 1).

14. In regard to claim 17, Blackman further discloses a device according to claim 15 wherein said front face portions of said first and second panels comprise a sheet of a cotton fabric material.

15. In regard to claim 18, Blackman further discloses a device according to claim 15 wherein said rear face portions of said first and second panels comprise a sheet of a cotton fabric material.

16. In regard to claim 21, Blackman further discloses a device according to claim 15 wherein at least one of said first panel 6 and said second panel 8 is of a multi-ply construction (see COL. 1, LN. 50), comprising at least a first ply and a second ply, said first ply corresponding to the front face portion of, and said second ply corresponding to the rear face portion of, said at least one of said first panel and said second panel, wherein said front face and said rear face of said at least one panel each independently comprise a sheet of cotton fabric.

17. In regard to claim 29, Blackman clearly shows a device comprising the limitations of claim 15, and further comprising and open pocket 52, and a pocket 100 with a closure means 101 (see FIG. 3).

18. In regard to claim 30, Blackman further discloses a device according to claim 15 wherein the left side portion of said second panel portion is hingedly attached to said right side portion of said first panel portions by means of stitching 32 (see FIG. 3).
19. In regard to claim 31, Blackman further discloses a device according to claim 15 wherein the left side portion of said second panel portion is hingedly attached to said right side portions of said first panel portion by virtue of said first panel and second panel sharing in common rear face portion 25.
20. In regard to claim 32, Blackman further discloses a device according to claim 15 wherein the rear face portion of said first panel portion and said second panel portion comprise the same single sheet of cotton fabric 26.
21. In regard to claim 33, Blackman further discloses a device according to claim 15 wherein the front face portion of said first panel portion and said second panel portion comprise the same single sheet of cotton fabric 25.
22. In regard to claim 34, Blackman further discloses a device according to claim 33 wherein the rear face portion of said first panel portion and said second panel portion comprise the same single sheet of cotton fabric 26.

***Claim Rejections - 35 USC § 103***

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. Claims 5, 7, 8, 10, 13, 16, 19, 20, 22, 23, 25, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blackman as applied to claims 1-4, 6, 9, 14, 15, 17, 18, 21, and 29-34 above.

25. In regard to claims 5, 19, and 20 the examiner takes official notice that it would have been obvious to one of ordinary skill in the art at the time of the invention to construct said panels of a single sheet of material. The motivation for said construction would be to use less material, or to make said device lighter and less bulky. It is well known in the art to construct hanging devices of a one-ply material for such motivations.

26. In regard to claims 7, 8, 22, and 23 the examiner takes official notice that it would have been obvious to one of ordinary skill in the art at the time of the invention to compose said front face of said panel and said rear face of sheets of fabric having different or like compositions. The motivation for using different material compositions would be to allow for different characteristics of said front and rear faces of said panel. The motivation for using like material compositions would be to have a consistent feel throughout the whole device.

27. In regards to claims 10 and 25, Blackman discloses a device comprising a soft, shock-absorbing reinforcing material disposed between said first ply and said second ply of each of said panels. Blackman does not disclose said reinforcing material selected from the group consisting of: cardboard, wood, polypropylene, and polyethylene. The examiner takes official notice that it would have been obvious to one of ordinary skill in the art at the time of the invention to use any of a variety of soft,

shock absorbing materials as said reinforcing material. The motivation for using a specific material would be to allow for various weights and or flexibilities of the overall device.

28. In regards to claims 13, 16, and 28, Blackman discloses a means of attaching said device to a wall; however, Blackman does not disclose the use of a hook and loop fastener as said means of attachment. The examiner takes official notice that it would have been obvious to one of ordinary skill in the art at the time of the invention to implement a hook and loop fastener on the device disclosed by Blackman as a means for attaching said device to a wall. The motivation for said implementation would be to provide for a lightweight and simple means of attaching said device to a wall.

29. Claims 11, 12, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blackman as applied above, and further in view of U.S. Patent No. 6,336,555 to Breeden.

30. Blackman discloses a device including all of the limitations of claims 6 and 21. Blackman does not disclose said device comprising one or more magnets as said means of attaching said device to a wall. Breeden discloses the use of magnets 122 as a means of attaching a device to a wall (see FIG. 1). Breeden further discloses the use of stitched seams for holding said magnets in place (see ABSTRACT, LN. 12). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the magnets as disclosed by Breeden between the first and second plies of

the device disclosed by Blackman. The motivation for said incorporation would be to provide the device with an alternate means of affixing to a metal object.

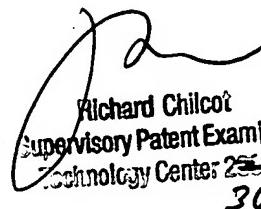
### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared W. Newton whose telephone number is (571) 272-2952. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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